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SUBJECT: KYRGYZSTAN: 2008-2009 INCSR, PART II, FINANCIAL CRIMES AND
MONEY LAUNDERING

Ref: STATE 104800

¶1. (U) No report was published for the Kyrgyz Republic in the 2007-2008 International Narcotics Control Strategy Report, Part II, Financial Crimes and Money Laundering. Embassy point of contact for this report is Pol-Econ Chief Robert Burgess, email: burgessrg@state.gov.

¶2. (SBU) Follow is Embassy Bishkek's submission for the 2008-2009 INCSR, Part II.

Begin Text:

The Kyrgyz Republic is not a regional financial center. Although Kyrgyzstan adopted a new anti-money laundering statute in 2006, gaps still exist in enforcement and implementation. The law enforcement authorities are completing necessary resource and structural modifications and are pursuing anti-money laundering and terrorist financing priorities. However, due to the fact that the system is only beginning to function, there are no significant results of financial investigations, or criminal prosecutions. The Kyrgyz banking system remains comparatively underdeveloped. Like other countries in the region, the Kyrgyz Republic's alternative remittance systems are susceptible to money laundering activity or trade-based fraud. The main sources of criminal proceeds in Kyrgyzstan are crimes connected with narcotics trafficking, as Kyrgyzstan is a drug trafficking transit route from Afghanistan. In addition, the smuggling of consumer goods, tax and tariff evasion, and official corruption continue as major sources of illegal proceeds within the Kyrgyz Republic. The lack of political will, resource constraints, inefficient financial systems, and, of course, corruption, all serve to stifle efforts to effectively combat money laundering and terrorist financing.

Money Laundering/Terrorist Financing primarily occurs through trade-based fraud and bulk cash carriers. The banking system is also at risk for money laundering, as oversight of the banking sector is generally weak, and Kyrgyz law enforcement agencies lack the expertise and resources necessary to effectively monitor and investigate financial irregularities. Kyrgyzstan is not considered an offshore financial center, nor does it have a free trade zone.

In June 2006, the Kyrgyz Republic adopted a fairly comprehensive law on "Counteracting Terrorist Financing and Legalization (Money Laundering) of Proceeds from Crime". The law defines predicate offenses as crimes under the Kyrgyz Criminal Code, and criminalizes income obtained as a result of a criminal action. The statutory threshold amount that triggers mandatory reporting is US\$25,000. The money laundering law also includes secrecy provisions that mandate civil and criminal liability for disclosure of client and ownership information, as well as for abuse of official position,

which safeguards effective reporting. It also requires mandatory reporting of suspicious transactions, in addition to a five-year record retention by all Kyrgyz financial institutions. The law has been in effect since November 2006, but, to date, there have been no criminal convictions for money laundering or terrorist financing cases.

The money laundering controls are applied equally to all banking and non-banking financial institutions, to include banks, credit institutions, stock brokerages, foreign exchange offices, casinos, and insurance companies. The new law mandates that all such entities report threshold amount transactions as well as all suspicious transactions. The two exceptions appear to be automobile dealers and developers of luxury condominiums and housing. At this point, automobile dealers are not required to report any high dollar transactions.

Chapter III of the money laundering law establishes a financial intelligence service, a state body authorized to collect and analyze financial intelligence. The Kyrgyz Financial Intelligence Service collects and analyzes information related to financial transactions; develops and implements measures on improving systems of prevention, detection, and suppression of suspicious transactions; and submits instituted cases to law enforcement, the prosecutor's office, and to the court for investigation and prosecution. The financial intelligence service is an administrative entity with no powers of criminal investigative or regulatory responsibilities.

Implementation of the financial intelligence service has been slow. Resources are inadequate, and the unit does not yet have the expertise, knowledge, or resources to become a functioning and effective entity to combat money laundering and terrorist financing. Criticism of the new law is focused in two areas. First, experts

claim the law does not actually criminalize money laundering, only the actions surrounding illegal proceeds of a crime. Thus, the new law is not FATF (Financial Action Task Force) compliant. Second, experts also claim the threshold amount is set too high, US\$25,000, which is extraordinarily high compared to the income standards of the average Kyrgyz. These deficiencies have been discussed in working group form, but have not been addressed in amendment form to date.

Current laws, as well as pending legislation, do not address the issue of asset forfeiture. In this respect, Kyrgyz law does not address avenues for seizing and forfeiting assets derived from criminal activity. Existing criminal laws do provide for fines and levies against property, but do not address mechanisms to actually seize assets or property. Kyrgyz law enforcement and other competent bodies including the Financial Intelligence Service are not adequately empowered to identify and find property subject to confiscation or property suspected of being the proceeds of a crime. Money Laundering is mainly investigated by the Financial Police of Kyrgyzstan; however it may also be investigated by other law enforcement entities, such as the Ministry of the Internal Affairs (MVD) and the Prosecutor General's Office. There is no provision under Kyrgyz law to allow for civil forfeiture.

Regarding international cooperation, chapter IV of the new money laundering law does provide for an international exchange of information and legal assistance. The law mandates that the new financial intelligence service, in compliance with international treaty obligations, collaborate with foreign counterparts in financial intelligence and terrorist financing matters.

The Kyrgyz Republic, along with Russia, China, Belarus, Tajikistan, and Kazakhstan, formed the Eurasian Group (EAG) for Counteraction to the Legalization of Illegal Incomes and Terrorism Financing, a FATF-style regional body designed to coordinate technical assistance and analyze trends in money laundering techniques. The EAG has conducted a mutual evaluation and provided a detailed assessment on anti-money laundering and combating terrorist financing in the Kyrgyz Republic.

The Kyrgyz Republic acceded to the United Nations Vienna Convention in 1994, ratified the United Nations Palermo Convention in 2003, and acceded to the United Nations Convention on the Suppression of the Financing of Terrorism of 1999 in 2003. The Kyrgyz Republic is a

party to the 1988 United Nations Convention of Narcotics and Psychotropic Substances, the United Nations Convention against Transnational Organized Crime and the United Nations Convention against Corruption.

The Government of the Kyrgyz Republic should continue to strengthen legislation as it relates to money laundering and financial crimes that support terrorist organizations, both within financial institutions and with those activities that circumvent financial institutions. In addition, the Kyrgyz Republic should increase and enhance training in money laundering and terrorist financing investigative techniques.

End text.

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